

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAI'I

OFELIA COLOYAN, ) CIVIL NO. 03-476 KSC  
Plaintiff, )  
vs. ) MEMORANDUM IN SUPPORT OF  
WILLIAM P. BADUA; ) MOTION  
JEFFREY OMAI; )  
SPENCER ANDERSON; )  
NEIL PANG; )  
and DOES 5-10, )  
Defendants. )  
\_\_\_\_\_  
)

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

Plaintiff Ofelia Coloyan (hereinafter "Plaintiff") instituted this lawsuit against Officers William P. Badua, Jeffrey Omai and Spencer Anderson (collectively hereinafter "Defendants") for allegedly violating her constitutional rights when Defendants allegedly searched her home on June 3, 2003, over her objection and without her consent. Plaintiff has alleged causes of action, which include violations of the Fourth and Fourteenth Amendments of the United States Constitution and Article I, Section 7 of the Constitution of the State of Hawai'i; as well as emotional distress, difficulty eating and sleeping, mental anguish, anxiety,

embarrassment, humiliation, and shame. In addition, Plaintiff is seeking punitive damages against Defendants for their alleged conduct.

Based on discovery conducted in this case and documents filed, it appears that Plaintiff may allege that Defendants did not have an arrest warrant for Plaintiff's son, Allan Coloyan (hereinafter "subject warrant"). Plaintiff has requested a copy of the subject warrant, however, Defendants have not produced the subject warrant because the subject warrant is still filed under seal by order of the court.

It is Defendants' understanding that Michael Kawahara, Esq. of the United States Attorney's Office is currently attempting to unseal the subject warrant by ex parte motion and will also have said document certified for trial in this matter. In the case that Mr. Kawahara is not able to obtain an order unsealing the subject warrant, Defendants request that this Court order the subject warrant be unsealed for purposes of using said document during trial.

## II. DISCUSSION

Rule 401 of the FRE states:

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Fed. R. Evid. 401.

Defendants assert that the subject warrant for Plaintiff's son is important towards their defense in this matter. More importantly, if Plaintiff alleges that Defendants did not have an arrest warrant on the date of the incident, Defendants will be highly prejudiced in their defense of their case.

In addition to the issue of consent, this case revolves around the fact that the reason why Defendants went to Plaintiff's residence on the date of the incident was because of the subject warrant. In turn, the subject warrant is relevant to this case.

### III. CONCLUSION

Based on the foregoing, Defendants respectfully request that this Honorable Court grant this motion, in limine, and order that the federal arrest warrant for Allan Coloyan, Case Number: CR 03-00273 DAE, be unsealed for use as an exhibit in this case only.

DATED: Honolulu, Hawaii, February 21, 2006.

CARRIE K.S. OKINAGA  
Corporation Counsel

By



---

KENDRA K. KAWAI  
MARIE MANUELE GAVIGAN  
Deputies Corporation Counsel  
Attorneys for Defendants